

REMARKS

Claims 3, 5, and 23 are currently pending in the present application, of which claim 3 is independent. These claims have not been amended in the present response. Claims 24-28 have been newly added in the present response; however, no new subject matter has been added.

102 Rejections

The examiner rejected claims 3, 5, and 23 under 35 U.S.C. § 102(b) as being anticipated by Barwick, Jr. (5,766,146) ("Barwick"). The Applicants respectfully traverse these rejections because Barwick fails to disclose all of the elements of the claims. For instance, Barwick fails to disclose, teach, or suggest a method for controlling fluid flow to and from an eye during ophthalmic surgery that includes the step of adjusting the maximum vacuum setting based on the determination of irrigation fluid pressure as required by all of the pending claims.

The examiner cites to Figure 3 of Barwick in support of his conclusion that Barwick discloses "continuously adjusting the maximum vacuum setting based on the continuous determination of the irrigation fluid pressure"; however, Figure 3 does not disclose this element. Instead, what Figure 3 shows is the control of irrigation fluid flow rate and pressure by a physician through a foot pedal, not the adjustment of the maximum vacuum setting based on the determination of irrigation fluid pressure. (See Barwick, col. 4, line 13 to col. 5, line 6). Accordingly, the Applicants respectfully submit that independent claim 3, and its dependent claims, 5 and 23 are patentable over the cited art, as well as newly added claims 24-28.

CONCLUSION

In view of the foregoing, it is respectfully submitted that all claims of the present application are in condition for allowance. Reconsideration and allowance of all pending claims at an early date is respectfully requested.

Applicants believe that no fees are due in accordance with this Amendment beyond those included herewith. Should any additional fees be due, the Commissioner is

S/N 10/692,832

Atty Docket No. 17419DIV3

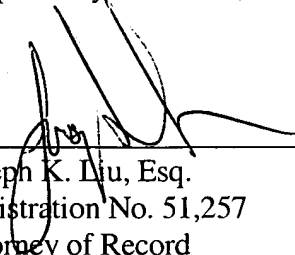
Kadziauskas et al.

Page 5

hereby authorized to charge any deficiencies or credit any overpayment to Deposit
Account 502317.

Respectfully submitted,

Date: October 26, 2006



Joseph K. Liu, Esq.
Registration No. 51,257
Attorney of Record
Customer No. 33357